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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,680	12/06/2005	Serge Calamel	0512-1306	3014
466	7590	01/16/2008		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER SCHILLINGER, ANN M	
			ART UNIT 3774	PAPER NUMBER
			MAIL DATE 01/16/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/559,680

Applicant(s)

CALAMEL, SERGE

Examiner

Ann Schillinger

Art Unit

3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☒ Other: Attachment A

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-23 and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Willi (U.S. Pat. No. 5,549,696). Willi discloses the following of claim 15: an acetabular implant cup insert for a joint prosthesis, the insert comprising a metal shell (2) and a polymer (col. 2, lines 52) lining (1) lining the inside space of said shell, a receptacle (1f) for a prosthetic head being formed in the lining, said shell presenting on its inside space means (4, 8) for preventing said lining being extracted from the shell and means for preventing the lining turning in the shell, wherein said means for preventing the lining being extracted comprise a stud (4a, 8) disposed on an end wall of the posterior portion of the inside space of the shell, said stud having at least one groove or lip (Attachment A) with which the lining interfits to lock the lining on the shell (col. 4, lines 10-59).

Willi discloses the limitations of claims 16-22 and 30 as shown in Attachment A.

Regarding claim 30, it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

Willi discloses the following of claim 23: the insert according to claim 15, wherein the anterior portion of said shell presents a conical shape (as shown in Figure 2a).

Willi discloses the limitations of claims 27 and 28 in col. 1, lines 5-14, 20-26.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willi in view of Noble et al. (U.S. Pat. No. 5,002,580). Willi does not teach the use of ceramics as a liner along the insert because ceramics are biologically inert and serve well as a bearing surface. Noble et al. teaches a prosthetic device with ceramics as a liner in col. 9, lines 9-13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use ceramics in the implant because they will not react badly in the patient's body while still providing a strong bearing surface.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willi in view of Noiles (U.S. Pat. No. 4,678,472). The Willi reference discloses the structural limitations of the acetabular insert, but not how it is constructed and inserted. Noiles teaches the artificial joint of claim 25 as follows: an insert according to claim 15, wherein said lining is obtained by an operation of thermocompressing said polymer in said inside space of the shell (col. 9, lines 20-26), followed by a machining operation (col. 9, lines 32-36). As described by Noiles, this process is well known in the art, and allows the liner to be fit properly to the outer shell before it is inserted. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to use these techniques as a potential method of constructing and inserting the acetabular cup.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willi in view of Fixel (U.S. Pat. No. 4,180,873). The Willi reference discloses the structural limitations of the acetabular insert, but not how it is constructed and inserted. Fixel teaches an implanted prosthesis with the method of inserting a previously shaped liner into the outer shell by impaction in col. 2, lines 18-25. This method provides a simpler means of constructing the acetabular cup before it is inserted into the patient. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use this technique as one of the many methods that are available for the construction and the insertion of the acetabular cup.

#### ***Response to Arguments***

The objection towards claim 28 is withdrawn.

Applicant's arguments filed 10/30/2007 have been fully considered but they are not persuasive. Regarding claim 15, the Applicant contends that the Willi reference does not have the stud located in a posterior portion of the inside space of the shell. However, the Willi invention is being interpreted as having the right portion be anterior portion and the left portion be the posterior portion. With this interpretation, the Willi reference meets the amended limitations made to claim 15.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

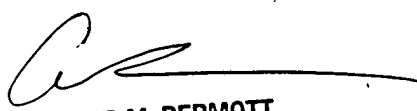
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ann Schillinger  
January 11, 2008



CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Attachment A

